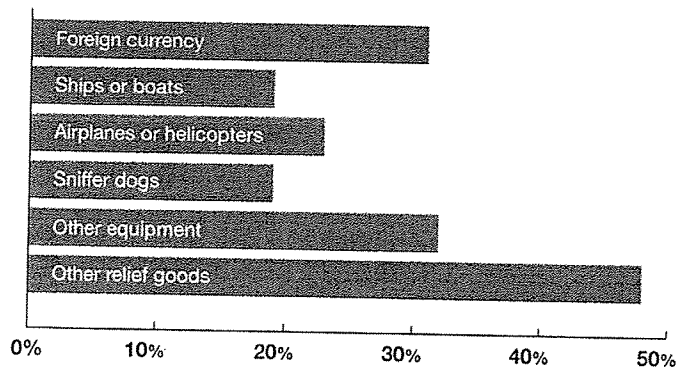


Law and legal issues in international disaster response: a desk study
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Other importation problems (all respondents)



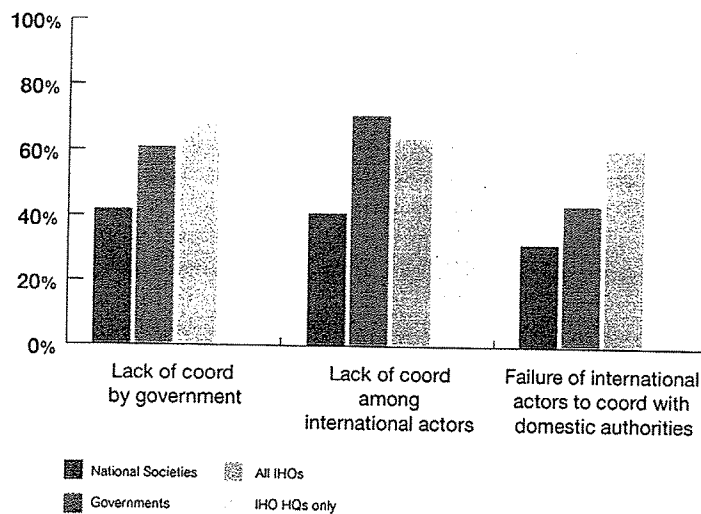
2.1.2 Operational problems

Once relief goods and/or personnel are inside the affected country, a different set of administrative problems arise.

2.1.2.1 Problems encountered by international actors

The problem most frequently cited in this survey was corruption or diversion of aid. Sixty-two percent of respondents had encountered corruption in their operations and 30 per cent encountered it frequently or always. The figures were particularly high for governments (79 per cent, of which 44 per cent frequently or always) and IHO headquarters (85 per cent, of which 15 per cent frequently or always).

Coordination problems



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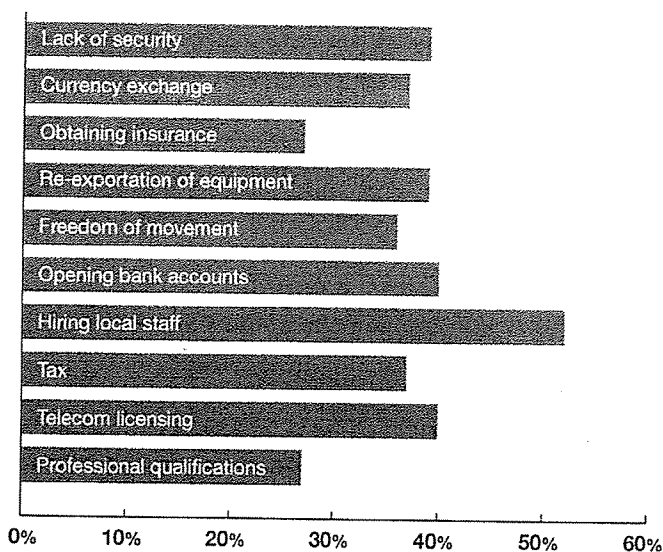
Also very common were problems with coordination, including with regard to failures of the government of the affected state to provide adequate guidance (reported by 58 per cent of respondents, of which 32 per cent frequently or always), failures of coordination between international relief providers (59 per cent, of which 36 per cent frequently or always), and failures of international actors to coordinate with domestic authorities (44 per cent, of which 13 per cent frequently or always). Ninety-two per cent of IHO headquarters reported having experienced coordination problems by governments and the same proportion noted coordination problems among international actors. Eighty-two percent reported having seen other international actors failing to coordinate with domestic authorities.

National and international coordination problems are plainly linked. As one respondent pointed out, "[t]he responsibility for effective disaster response rests with a stricken country... Without appropriate structures and procedures at the national level, international coordination is bound to fail." Respondents reported that these gaps in coordination often led to inequitable delivery of aid, including both duplication in some areas and inadequate aid in others.

One respondent pointed out that "some agencies do not invest in understanding and accessing local NGO networks." Nevertheless, they noted that, in many cases, local and international NGOs have consciously tried to coordinate activities. Another comment received was that differing views regarding whether or not to respond when there is no request for support from a Government creates difficulties in coordinating disaster response operations.

Other commonly cited legal difficulties included barriers to hiring local staff (52 per cent of respondents), opening local bank accounts (40 per cent of respondents) and re-exporting relief equipment and/or unused relief goods (40 per cent of respondents).

Other operations problems (all respondents)

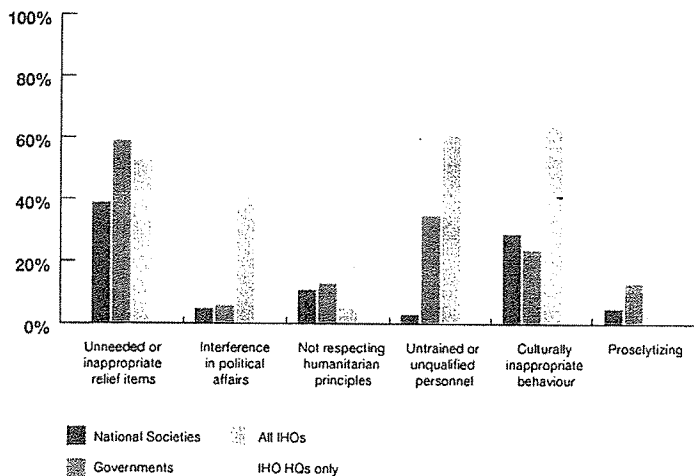


2.1.2.2 Quality problems

Respondents also reported on a number of problems in the quality of the assistance provided by international actors. Even more dramatically than for the types of problems discussed above, many more IHO headquarters reported seeing these behaviours than other respondents, as the chart below makes clear.

The most commonly cited problem overall was the provision of unneeded or inappropriate relief items. Forty-eight per cent of all respondents, 59 per cent of governments and 80 per cent of IHO headquarters had experienced this at some point in an international disaster operation. Many respondents complained of the provision of inappropriate types of clothing, food which was not suitable to local eating habits, and medications that were expired or labelled in a language not locally understood.

Problems with International disaster responders



The use of untrained or unqualified personnel was noted by 42 per cent of respondents and 91 per cent of IHO headquarters. One IHO pointed out that "the use of well-meaning, motivated but untrained volunteers is commonplace in all major disaster responses." Linked to this was the issue of culturally inappropriate behaviour by international personnel, which was identified by 41 per cent of all respondents and 91 per cent of IHO headquarters. Specific bad behaviours noted included consumption of non-authorised substances, "drinking, boisterous, disrespectful behaviour in Muslim environments," provocative dress and inappropriate male-female relations. As one respondent observed, "in our commitment to try and get things done, we often overlook the impact of our actions on local norms."

A number of operating national societies (i.e. those based in the affected state) noted problems of respect by participating national societies of their primary role at the national level. These included:

- the provision of direct assistance, rather than assisting the national society of the affected country

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- sending relief goods to the Government, instead of to the national society, which caused a delay in their release and delivery
- a lack of communication with the operating national society in order to establish what is needed in the affected country
- a lack of respect for the volunteers of the operating national society, who were "not considered as the most important operation resource, but as the cheapest work (without any rights)" and
- entry into the field without obtaining permission/an invitation from the local national society, "which was not seen as a coordination counterpart".

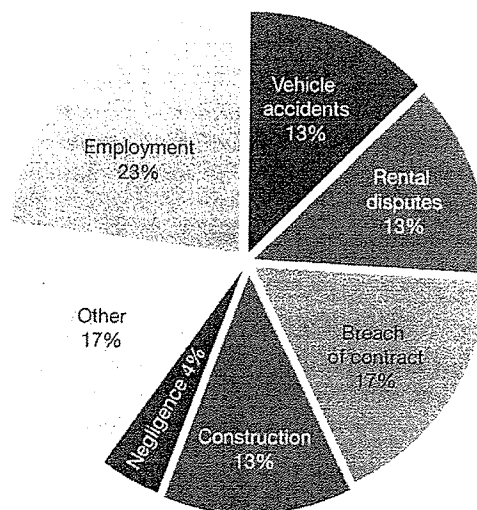
Respondents were asked to identify other challenges that arose with regard to other international disaster responders that were not already addressed in the questionnaire. One IHO noted that "visibility and the need to appear as the first organization to respond" creates situations where there is no possibility to coordinate in timely fashion with other international disaster responders. Other problems identified by national societies included the presence of various IHOs only interested in gaining funds without any genuine commitment to providing relief.

2.1.2.3 Liability issues

Overall, respondents appeared to indicate that neither civil nor criminal liability were a great concern in their operations. Only 4 per cent of all respondents and 10 per cent of IHOs indicated that the potential of civil liability had substantially impeded their operations. Similarly, only 1 per cent of all respondents and 3 per cent of IHOs reported substantial impediments from the potential of criminal investigation or arrest.

Nevertheless, 15 per cent of all respondents and 32 per cent of IHOs (including some UN agencies) had had civil claims brought against them. These were roughly equally divided between employment cases, vehicle accidents, rental disputes, other contractual issues, and construction, in addition to negligence and other types of claims.

Types of claims reported



Moreover, 6 per cent of all respondents and 19 per cent of IHOs reported that a staff member or volunteer had at one point been criminally investigated or jailed in the course of an international disaster relief operation.

2.2 Measures to facilitate

The experience of international relief operations is certainly not only one of obstacles and opposition between international actors and domestic authorities. Respondents also identified a number of efforts by affected state governments that smoothed and facilitated disaster response operations.

Overall, 49 per cent of respondents indicated that affected state governments had at one point made exceptions to normal laws, rules or procedures in order to facilitate their disaster response operations. However, the treatment of the various groups varied substantially, with 87 per cent of governments reporting having benefited from such exceptions, 48 per cent of IHOs and only 23 per cent of national societies.

It was commonly reported that affected state governments had expedited or waived visa processes for relief personnel and that respondents had received tax and customs exemptions. One respondent also noted the facilitation and cooperation it had received from governments in transit states, which simplified border-crossing and customs procedures. Other responses included allowing exceptions concerning laws concerning movement within the territory, the provision of equipment to assist the relief effort and allowing humanitarian agencies free access to disaster sites.

Over half of the respondents had also benefited from affirmative help from the affected state governments, including free or reduced price transportation (59 per cent of respondents), free or reduced price buildings or facilities (57 per cent), free or reduced price services, such as water and electricity (53 per cent), or free security protection for their personnel (51 per cent).

Received from affected State Governments

